

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 1920 of 2001
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VASANTIBEN B THAKER

Versus

REGISTER OFFICER

Appearance: MRS NISHA M PARIKH for Petitioner
MR MITUL K SHELAT for Respondent No. 1
Mr.Joshi, Assistant GOVERNMENT PLEADER,
for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/06/2001

ORAL JUDGEMENT

Rule. Mr.M.K. Shelat and Mr.Joshi waive service of rule on behalf of respondents Nos. 1 and 2, 3 and 4, respectively. With the consent of parties, the matter is taken up for final hearing today.

It is unfortunate that the petitioner, who is the widow of a deceased employee, is craving for getting pensionary benefit after the death of her husband, who was serving as a Watchman in the Gujarat University.

The husband of the petitioner joined the services of the University on 9.8.1972 as a daily wager on the post of Watchman. As per the averment in the petition, he was given permanent post on 1.4.1982 as per the order

at Annexure 'A' and he retired from service with effect from 30th September, 1985. As a Watchman, he seems to have served continuously for three years and six months till the age of superannuation.

The petitioner has also relied upon a judgment of the Industrial Tribunal to the effect that in the case of those employees, who have been considered as permanent employees from 1.4.1982, the period for which they have continued on temporary basis / as daily rated employee, also should be taken not consideration, i.e. the period from which they were so appointed on temporary basis. After deducting three years of such service on temporary basis, rest of the period should be considered for the benefit of pension. It is not in dispute that the petitioner's husband was serving as a daily rated employee from 9.8.1972. So, if three years are deducted, then, he will be entitled to get the benefit of continuous service from 9.8.1975. Now, from that date, his services are required to be computed for the purpose of pension till his date of superannuation on 30.9.1985. The said period comes to 10 years, one month and 23 days. The petitioner's husband was accordingly entitled to pension since he has completed more than 10 years.

Now, in spite of this clear position, there is no reason why the case of the petitioner is delayed up to this date and still the case has not been finalised by the Competent Authority. Day in and day out, the Court is dealing with pension cases which are required to be finalised immediately without undue delay. In the instant case, the University has also addressed various letters to the concerned Authority of the State Government for finalising the case, with all particulars. If such casual approach is continued by the concerned Department of the State Government, who is in charge of the pension cases, strict view will be taken. Such Officer will be directed to pay interest amount from his pocket and the Court will be compelled to direct holding of departmental enquiry against such Officer. It is hoped that such cases will be disposed of promptly without raising irrelevant queries to delay such cases. In the instant case, even though the University has written from time to time, the concerned Officer, on irrelevant ground, is delaying the aforesaid case. The husband of the petitioner has died since long and till today, she has not got the pensionary benefit. The facts of the case, as stated above, are very clear, that the late husband of the petitioner was entitled to pension, and still the said case is not finalised.

Mr.Joshi, learned AGP, submits that proper direction may be given for finalising the pension case of the present petitioner. The Director of Pension and Provident Fund is accordingly directed that the case of the petitioner for payment of pension and other retirement dues should be immediately decided, latest by 31st August, 2001 and whatever amount which is required to be paid to the petitioner towards arrears, will be paid to the petitioner with interest at the rate of 12% per annum. If there is any further delay in disposing of the case, the concerned Officer will have to bear the burden of payment of interest. If the aforesaid case is not finalised by the aforesaid date, it will be open for the petitioner to bring the same to the notice of this Court so that appropriate contempt proceedings can also be initiated against the concerned Officer. The decision regarding finalisation of the pension case of the petitioner should be taken by 31st August, 2001 and ultimately on such decision, whatever amount is required to be paid to the petitioner, as stated earlier, will be paid with interest at the rate of 12% per annum.

The petition is allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs.

Learned AGP is directed to communicate this order to the concerned Department so that the said Department can take prompt decision in this matter.

Petitioner can directly communicate this order to the concerned Department, i.e., the Department of the Director of Pension and Provident Fund.

21st June, 2001 (P.B. Majmudar, J.)

(apj)